

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

PETER LESNIEWSKI, et al.

Defendants.

11 Cr. 1091

ORDER

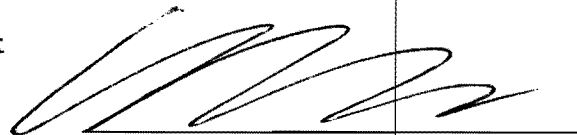
VICTOR MARRERO, United States District Judge.

On May 14, 2012, defendants Peter Lesniewski, Joseph Rutigliano, and Steven Gagliano were arraigned on superseding indictment S4 11 Cr. 1091. The Government (see attached letter) requests that the Court exclude time from Speedy Trial Act calculations until July 15, 2013.

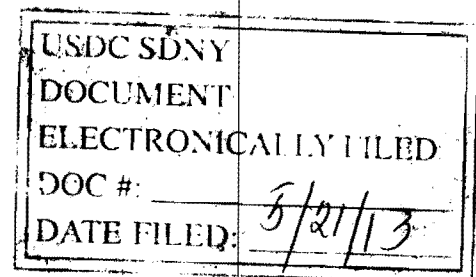
It is hereby ordered that the adjourned time shall be excluded from speedy trial calculations. This exclusion is designed to guarantee effectiveness of counsel and prevent any possible miscarriage of justice. The value of this exclusion outweighs the best interests of the defendants and the public to a speedy trial. This order of exclusion of time is made pursuant to 18 U.S.C. § 3161(h)(7)(A).

SO ORDERED:

Dated: New York, New York
21 May 2013



Victor Marrero
U.S.D.J.





U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

May 14, 2013

BY FAX

The Honorable Victor Marrero
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Lesniewski et al., S14 11 Cr. 1091 (VM)

Dear Judge Marrero:

As your Honor is aware, today defendants Lesniewski, Rutigliano, and Gagliano were arraigned on the above-referenced Indictment. At the arraignment, the Government noted that time had already been excluded from the Speedy Trial clock by your Honor, and thus did not seek an additional exclusion from Judge Maas. Counsel for defendant Rutigliano stated on the record, however, that in his view the Speedy Trial clock begins running today.

While the Government believes that this position articulated by the defense is incorrect, *see United States v. Roman*, 822 F.2d 261, 264 (2d Cir. 1987) (a superseding indictment inherits "both the 70-day time clock of the original indictment and the exclusions granted thereunder"), because all of the charges contained in the S14 Indictment were either contained in earlier indictments or are properly joined with the charges contained in prior indictments, out of an excess of caution the Government requests that the Court again exclude time through the trial date of July 15, 2013. At our last conference on January 18, 2013, the Court found that the ends of justice in excluding time to that date outweighed the interests of the public and the defendants in a speedy trial. 1/18/2013 Tr. at 15. The basis for this finding was to afford the defendants continuity of counsel and to permit all parties to prepare for the July 15, 2013 date. Notably, the date originally proposed for trial was April 22, 2013, and counsel for Rutigliano is the one who objected to that earlier date due to a scheduling conflict. No defendant objected to the Speedy Trial exclusion made on January 18, 2013.

Accordingly, the Government requests that the Court exclude time from the speedy trial clock in the interests of justice for the reasons stated in this letter and at our January 18, 2013 conference, from today through July 15, 2013.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: /s/ Justin S. Weddle
Nicole Friedlander
Daniel B. Tehrani
Justin S. Weddle
Assistant United States Attorneys
212-637-2211/2455/2312

Cc by email:

Joshua L. Dratel, Esq. and Thomas A. Durkin, Esq.
Joey Jackson, Esq.
Joseph W. Ryan, Jr., Esq.
Stephen P. Scaring, Esq.